

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2001-017919

06/11/2003

HON. MARGARET H. DOWNIE

CLERK OF THE COURT
L. Rasmussen
Deputy

FILED: 06/13/2003

DEANNA DANIEL, et al.

WILLIAM J MONAHAN

v.

FACS GROUP INCORPORATED, et al.

SARAH LYNN BARNES

RULING

The court has had two defense motions under advisement. It now rules as follows.

Macy's and Federated's Motion for Summary Judgment

Plaintiffs are not making an alter ego claim as to Macy's and Federated. Rather, they claim that the moving defendants are vicariously liable for any negligence by FACS based on an agency theory, that *respondeat superior* liability attaches to the actions of Pasek, and that Federated (but not Macy's) was independently negligent.

For the reasons stated by the moving defendants,

IT IS ORDERED granting defendants Macy's and Federated's Motion for Summary Judgment.

Hireright's Motion to Dismiss/Motion for Summary Judgment

The court treats the entire motion as one for summary judgment. *See* Rule 12(b), Ariz.R.Civ.P. Issues of fact exist regarding the statute of limitations defense. The circumstances applicable to Hireright differ from those previously considered by Judge Burke regarding Guardsmark. Nor does the court find that the doctrine of laches bars plaintiffs' claims as a

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matter of law. However, the court agrees with Hireright's arguments regarding duty, breach of duty, and proximate cause.¹

IT IS ORDERED granting defendant Hireright's Motion for Summary Judgment.

¹ The court makes no ruling on Hireright's argument that no claim exists on behalf of Baby Doe Daniel.
Docket Code 019